

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PROPET USA, INC.,)	CASE NO. C06-0186-MAT
)	
Plaintiff,)	
)	ORDER ENTERING PERMANENT
v.)	INJUNCTION AND ADDRESSING
)	ORDER FOR IMPOUNDMENT
LLOYD SHUGART,)	
)	
Defendant.)	
_____)	

The Court previously granted defendant's motion for a permanent injunction and for impoundment and destruction of infringing articles, but requested that the parties meet and confer regarding a stipulated order. (Dkt. 165.) The parties were unable to reach an agreement and submitted individual proposed orders. (Dkts. 168 & 169.) Now, having considered the papers filed by the parties, the Court ORDERS as described below.

INJUNCTION AND IMPOUNDMENT

Propet USA, Inc., its officers, agents, servants, employees, attorneys, assignees, successors-in-interest, and those in active concern or participation with any of them (hereinafter

collectively referred to as “Propet”), are permanently enjoined from: (1) the continued infringement of defendant Lloyd Shugart’s (hereinafter “Shugart”) copyrighted images contained within the copyright registrations dated April 10, 2006, as shown in Exhibit A to this Order; and (2) removing copyright management information from any of Shugart’s digital images in violation of the Digital Millennium Copyright Act (DMCA) or continuing to use any offending digital images.

The Court also specifically orders Propet to remove from any websites under its control the digital images identified in Exhibit B to this Order. The parties shall further proceed as follows:

(1) Within **fourteen (14) days** of the date of this Order, Propet shall provide to Shugart a representative sample of its current marketing material for evaluation by Shugart. Within **twenty-one (21) days** of the receipt of this material, Shugart shall provide to Propet and the Court a showing as to any images contained within that material that represents either continued copyright infringement of images contained in Exhibit A to this Order or continued use of an image in which petitioner’s copyright management information has been removed.¹ Propet shall then, within **twenty-one (21) days** of the receipt of Shugart’s materials, submit a response. In that response, Propet may, for example, dispute Shugart’s offering with proof that the images were taken by a different photographer. The Court will thereafter review the submissions of the

¹ Shugart should utilize the same type of comparison technique as demonstrated in Exhibit B to this Order. (*See also* Dkt. 165 at 7 (stating that Shugart could “utilize the same approach used at trial; that is, a comparison of each copyrighted image as contained within one of the two copyright registrations at issue in this case, with the image included on Propet’s website.”))

01 parties in order to determine whether or not any action should be taken, including either the
02 impoundment of the marketing materials or the issuance of an order directing Propet to not engage
03 in future production of the materials.

04 (2) To the extent Shugart identifies future instances of infringement by Propet or
05 Propet's continued use of images in which Shugart's copyright management information has been
06 removed, he will continue to bear an initial burden of identification and proof. *See supra* n. 1.
07 (*See also generally* Dkt. 165.) The parties should make every effort to resolve any such issues
08 informally.

09 CONCLUSION

10 The parties are directed to proceed as indicated above. The Clerk is directed to send
11 copies of this Order to counsel for the parties.

12 DATED this 17th day of January, 2008.

13 
14 Mary Alice Theiler
15 United States Magistrate Judge
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